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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Implementation of Sections of the) **MM Docket No. 92-226**
Cable Television Consumer Protection)
and Competition Act of 1992;) **CS Docket No. 96-60**
Rate Regulation)
)
Leased Commercial Access)

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COMMENTS OF THE BRUNO GOODWORTH NETWORK INC. d/b/a WBGH-TV

1. These Comments are filed by **The Bruno Goodworth Network d/b/a WBGH-TV** in response to the Commission's "Further Notice of Proposed Rulemaking" in this proceeding, FCC 96-122, released March 19, 1996. We are the operator of low power television (LPTV) station W66BQ Freedom, Pennsylvania.

2. **WBGH-TV** is a full service broadcast station currently serving the counties of Beaver and Lawrence in the Pittsburgh Demographic Marketing Area (DMA). Our local all news, sports and weather format provides "over-the-air" viewers in these counties with their only real local television station. Full power stations in the DMA are located over 30 miles away from our station and do not give the area any attention unless there is some monumental disaster or they are doing a promotion gimmick to attract viewers.

3. **WBGH-TV** does not enjoy "must carry" status as of this writing. Efforts to get on TCI, the areas largest local cable system, have been unsuccessful. TCI offered **WBGH-TV** cable carriage under the current leased access rules for \$2,600,000 per year. This cable carriage only covers one third of the Pittsburgh DMA. Obviously this aggressive pricing policy is in place to keep **WBGH-TV** and most if not all other leased access programmers off their system and therefore substantially effecting our competitiveness in the marketplace.

4. **WBGH-TV** applauds The Commission for taking action on leased access. This critical issue needs to be resolved quickly and effectively in order to keep local programmers like **WBGH-TV** from

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becoming "road kill" on the information highway. Therefore The Commission needs to put this rulemaking at the top of the list of its priorities. **WBGH-TV** respectfully requests The Commission to act on this rulemaking by August 1, 1996.

5) LPTV operators across the country provide a vast diversity of localized programming. It is in the public interest to give favorable leased access status to all leased access programmers (LAPS) who provide a service to the local community. This needs to be recognized in two categories, rates and when leased access channels are filled. LPTV stations and local LAPS should receive a 50% discount on lease access rates because of the extremely high production costs associated with this programming. LPTV stations and local LAPS should get "first consideration" when leased access channels are filled because the local programming service that communities will get from the local producer will serve the needs of the community better than non local services.

6) Cable Operators, National Cable Networks, Must Carry Broadcast Stations and National Television Networks should be excluded from leased access. The intent of lease access is for program diversity. The above entities generally already have access to cable systems. Most must carry stations negotiate for a second channel through retransmission agreements. There should be no incentive for a large network with millions of dollars to "clog" leased access channels. The Commission needs to insure that LPTV stations and other local LAPS are able to lease access without the threat of being displaced by a network who does not provide diverse local programming.

7) The Commission needs to be very specific on who is responsible for rate accuracy. **WBGH-TV** recommends that if there is a disagreement over rates between the LAP and the cable operator each should be allowed to find a mutually acceptable CPA. The LAP should go on the system immediately. If the cable operator overcharged the LAP the cable operator should pay for the LAPS CPA and face stiff penalties for overcharging. If the cable operator is in compliance the LAP should reimburse the cable operator for any reasonable fees associated with the LAPS inquiry.

8) There should be no "phase in" time for leased access, it should be an immediate seamless transition. Cable operators knew before filling any channels designated for leased access that they might

have to use those channels and abide by the law. Therefore, because space for leased access is not a surprise to cable operators, they need to make room immediately, LAPS have waited long enough.

9) The Commission needs to insure that when computing the new formula that cable operators use only the least profitable channels in the calculations. Based on the cable industries behavior with current leased access rules, it is safe to assume that aggressive pricing policies will remain the norm. If the least profitable channels are not used in the calculation, aggressive operators will be tempted to inflate leased access rates by using highly profitable channels in the calculations. **WBGN-TV** is not opposed to cable operators making a "reasonable" profit. LPTV stations and LAPS need to make a reasonable profit too. All programming costs money to make. Congress intended to create leased access to become a valuable diverse part of our daily programming diet, I doubt the intent was to make leased access channels the "public access channels for the wealthy."

10) Part time LAPS should not be required to pay more than a 15% increase in rates from that of a full time calculation for the same period of time. Total part time rates should equal full time rates.

11) Local LPTV operators and other good local LAPS will not hurt cable operators through leased access, in fact the opposite is true, these LAPS will enhance cable systems and attract more subscribers. Cable operators are under no regulatory restrictions that would require them to displace popular cable channels or information networks like C-Span. Cable operators are generally good business operators who will do their best to satisfy their customers. Any attempts by cable operators to displace popular cable channels will cause a decrease in subscriber base. No sensible operator will destroy his or her business by eliminating good product. The current proposed formula by the commission is a good one and will lead to a cable operator providing only a handful of channels for leased access. The cable industries claims of losing a substantial amount of channels to leased access and having to displace popular cable channels are simply not warranted.

12) The maximum rate formula proposed by The Commission seems to make sense except for the concerns stated in paragraph nine (9) of this letter. Cable industry concerns of giving away "free" channels through leased access is simply not true. The "double recovery" system that cable operators enjoyed all of these years will be gone, but plenty of money will be made by cable operators using the new

formula because negative revenue generating channels can now be used for leased access. The open market will not allow these channels to stay at a low leased access rate. This will mean that competition for leased access channels will boost rates and a cable operator that had negative cash flow on a channel before may find that the same channel may become one of the most profitable channels on the system because of leased access. Therefore from a profitability point of view, leased access will ultimately make cable operators even more money.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ron Bruno', with a long horizontal flourish extending to the right.

Ron Bruno
President
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Prepared by Ron Bruno - May 12, 1996